IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 633 of 1983
WITH
X-OBJECTION STAMP No. 15407 of 1983

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

TARAJI RAJAJI PUROHIT - Appellant(s)
Versus
AHMADKHAN PIRKHA & 1 - Defendant(s)

==========

Appearance :
MR VS SHAH for Appellant(s) : 1,
MR MD PANDYA for Defendant(s) : 1 - 2.

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 04/08/2006

ORAL JUDGMENT

1.0 By way of this appeal, the appellant has challenged the judgment and award of the Motor Accident Claims Tribunal (Main), Mehsana passed in M.A.C.P. No. 222 of 1981 dated 17th July, 1982.

2.0 The brief facts of the case are that on 10.04.1981, when the present appellant was proceeding on his camel cart carrying gunny bags towards Kukarwada he was dashed by a bus driven

by present opponent No.1 and owned by present opponent No.2. On account of the said accident, the appellant received serious bodily injuries and his cart was damaged too. Therefore, he filed a petition claiming an amount of Rs.50,000/- by way of compensation.

2.1 In the said petition, after hearing the parties, the Tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Heard, learned Counsel for the parties. It is not in dispute that on the day of accident both the vehicles involved in the accident in question were coming from opposite directions. It is also an admitted fact that on that day opponent No.1 was driving the bust at a speed of 60 k.m. per hour which is maximum for an express bus. On perusal of the 'Panchnama' of the scene of offence (Exh.21) it transpires that the breadth of the tar road at the place of incident is about 12' feet and there is a kachha road of

about 6' feet on both the sides of the tar road. It was further mentioned in the 'Panchnama' that ½ portion of the came cart was laying on the kachha road and the rear part portion of the cart was in the fallow land. It may be noted that the bus driven by opponent No.1 was standing at a distance of about 177' feet away. Therefore, the story of the opponent No.1 that he had applied brakes cannot be believed. Hence, the Tribunal has justified in holding that the opponent No.1 was solely responsible for the accident in question, and therefore, the appellant is entitled for compensation.

3.1 As regards the aspect of compensation, the Tribunal has awarded an amount of Rs.26,300/- under various heads along with interest at the rate of 6 per cent. Looking to the medical evidence produced on record and the injury sustained by the appellant, the amount awarded by the Tribunal is just and proper. I am, therefore, in complete agreement with the reasoning given

and findings arrived by the Tribunal, and hence, find no reason to interfere in this appeal.

4.0 In the result, the appeal as well as cross-objections filed by the opponent No.2 stands dismissed. No order as to costs.

(K.S. Jhaveri,J.)

Umesh/